

§ 1.195-1

26 CFR Ch. I (4-1-11 Edition)

year in which the expenditures were incurred, and by attaching a statement to such return. The statement should state the amounts of the expenditures, describe the nature of the expenditures, and give the date on which each was incurred. The statement should also state the type of timber being grown and the purpose for which it is being grown. A separate statement must be included for each property for which reforestation expenditures are being amortized under section 194. The election may only be made on a timely return (taking into account extensions of the time for filing) for the taxable year in which the amortizable expenditures were made.

(b) *Special rule.* With respect to any return filed before March 15, 1984, on which a taxpayer was eligible to, but did not make an election under section 194, the election to amortize reforestation expenditures under section 194 may be made by a statement on, or attached to, the income tax return (or an amended return) for the taxable year, indicating that an election is being made under section 194 and setting forth the information required under paragraph (a) of this section. An election made under the provisions of this paragraph (b) must be made not later than,

(1) The time prescribed by law (including extensions thereof) for filing the income tax return for the year in which the reforestation expenditures were made, or

(2) March 15, 1984, whichever is later. Nothing in this paragraph shall be construed as extending the time specified in section 6511 within which a claim for credit or refund may be filed.

(c) *Revocation.* An application for consent to revoke an election under section 194 shall be in writing and shall be addressed to the Commissioner of Internal Revenue, Washington, DC 20224. The application shall set forth the name and address of the taxpayer, state the taxable years for which the election was in effect, and state the reason for revoking the election. The application shall be signed by the taxpayer or a duly authorized representative of the taxpayer and shall be filed at least 90 days prior to the time prescribed by law (without regard to ex-

tensions thereof) for filing the income tax return for the first taxable year for which the election is to terminate. Ordinarily, the request for consent to revoke the election will not be granted if it appears from all the facts and circumstances that the only reason for the desired change is to obtain a tax advantage.

[T.D. 7927, 48 FR 55851, Dec. 16, 1983]

§ 1.195-1 Election to amortize start-up expenditures.

[Reserved] For further guidance, see § 1.195-1T.

[T.D. 9411, 73 FR 38913, July 8, 2008]

§ 1.195-1T Election to amortize start-up expenditures (temporary).

(a) *In general.* Under section 195(b), a taxpayer may elect to amortize start-up expenditures as defined in section 195(c)(1). In the taxable year in which a taxpayer begins an active trade or business, an electing taxpayer may deduct an amount equal to the lesser of the amount of the start-up expenditures that relate to the active trade or business, or \$5,000 (reduced (but not below zero) by the amount by which the start-up expenditures exceed \$50,000). The remainder of the start-up expenditures is deductible ratably over the 180-month period beginning with the month in which the active trade or business begins. All start-up expenditures that relate to the active trade or business are considered in determining whether the start-up expenditures exceed \$50,000, including expenditures incurred on or before October 22, 2004.

(b) *Time and manner of making election.* A taxpayer is deemed to have made an election under section 195(b) to amortize start-up expenditures as defined in section 195(c)(1) for the taxable year in which the active trade or business to which the expenditures relate begins. A taxpayer may choose to forgo the deemed election by clearly electing to capitalize its start-up expenditures on a timely filed Federal income tax return (including extensions) for the taxable year in which the active trade or business to which the expenditures relate begins. The election either to amortize start-up expenditures under section 195(b) or to capitalize

start-up expenditures is irrevocable and applies to all start-up expenditures that are related to the active trade or business. A change in the characterization of an item as a start-up expenditure is a change in method of accounting to which sections 446 and 481(a) apply if the taxpayer treated the item consistently for two or more taxable years. A change in the determination of the taxable year in which the active trade or business begins also is treated as a change in method of accounting if the taxpayer amortized start-up expenditures for two or more taxable years.

(c) *Examples.* The following examples illustrate the application of this section:

Example 1. Expenditures of \$5,000 or less. Corporation X, a calendar year taxpayer, incurs \$3,000 of start-up expenditures after October 22, 2004, that relate to an active trade or business that begins on July 1, 2009. Under paragraph (b) of this section, Corporation X is deemed to have elected to deduct start-up expenditures under section 195(b) in 2009. Therefore, Corporation X may deduct the entire amount of the start-up expenditures in 2009, the taxable year in which the active trade or business begins.

Example 2. Expenditures of more than \$5,000 but less than or equal to \$50,000. The facts are the same as in *Example 1* except that Corporation X incurs start-up expenditures of \$41,000. Under paragraph (b) of this section, Corporation X is deemed to have elected to deduct start-up expenditures under section 195(b) in 2009. Therefore, Corporation X may deduct \$5,000 and the portion of the remaining \$36,000 that is allocable to July through December of 2009 ($\$36,000/180 \times 6 = \$1,200$) in 2009, the taxable year in which the active trade or business begins.

Example 3. Subsequent change in the characterization of an item. The facts are the same as in *Example 2* except that Corporation X determines in 2011 that Corporation X incurred \$10,000 for an additional start-up expenditure erroneously deducted in 2009 under section 162 as a business expense. Under paragraph (b) of this section, Corporation X is deemed to have elected to amortize start-up expenditures under section 195(b) in 2009, including the additional \$10,000 of start-up expenditures. Corporation X is using an impermissible method of accounting for the additional \$10,000 of start-up expenditures and must change its method under § 1.446-1(e) and the applicable general administrative procedures in effect in 2011.

Example 4. Subsequent redetermination of year in which business begins. The facts are the same as in *Example 2* except that, in 2010,

Corporation X deducted the start-up expenditures allocable to January through December of 2010 ($\$36,000/180 \times 12 = \$2,400$). In addition, in 2011 it is determined that Corporation X actually began business in 2010. Under paragraph (b) of this section, Corporation X is deemed to have elected to deduct start-up expenditures under section 195(b) in 2010. Corporation X impermissibly deducted start-up expenditures in 2009, and incorrectly determined the amount of start-up expenditures deducted in 2010. Therefore, Corporation X is using an impermissible method of accounting for the start-up expenditures and must change its method under § 1.446-1(e) and the applicable general administrative procedures in effect in 2011.

Example 5. Expenditures of more than \$50,000 but less than or equal to \$55,000. The facts are the same as in *Example 1* except that Corporation X incurs start-up expenditures of \$54,500. Under paragraph (b) of this section, Corporation X is deemed to have elected to deduct start-up expenditures under section 195(b) in 2009. Therefore, Corporation X may deduct \$500 ($\$5,000 - 4,500$) and the portion of the remaining \$54,000 that is allocable to July through December of 2009 ($\$54,000/180 \times 6 = \$1,800$) in 2009, the taxable year in which the active trade or business begins.

Example 6. Expenditures of more than \$55,000. The facts are the same as in *Example 1* except that Corporation X incurs start-up expenditures of \$450,000. Under paragraph (b) of this section, Corporation X is deemed to have elected to deduct start-up expenditures under section 195(b) in 2009. Therefore, Corporation X may deduct the amounts allocable to July through December of 2009 ($\$450,000/180 \times 6 = \$15,000$) in 2009, the taxable year in which the active trade or business begins.

(d) *Effective/applicability date.* This section applies to start-up expenditures paid or incurred after September 8, 2008. However, taxpayers may apply all the provisions of this section to start-up expenditures paid or incurred after October 22, 2004, provided that the period of limitations on assessment of tax for the year the election under paragraph (b) of this section is deemed made has not expired. Otherwise, for start-up expenditures paid or incurred prior to September 8, 2008, see § 1.195-1 in effect prior to that date (§ 1.195-1 as contained in 26 CFR part 1 edition revised as of April 1, 2008).

(e) *Expiration date.* This section expires on July 7, 2011.

[T.D. 9411, 73 FR 38913, July 8, 2008]